



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Cheshire/Xerox--Reconsideration

File: B-226939.4

Date: September 28, 1987

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### DIGEST

Request that General Accounting Office (GAO) reconsider its dismissal of the protester's objections to the adequacy of another offeror's technical proposal, and decide those issues on the merits, is denied where protester, by virtue of the rejection of its own proposal on another ground (which action GAO upheld in its prior decision and has not been asked to reconsider) was not eligible for award of the contract and therefore not an "interested party" under GAO's Bid Protest Regulations for purposes of challenging the award to another.

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### DECISION

Cheshire/Xerox (C/X) has requested reconsideration of and our decision on the merits of that portion of its protest which we dismissed in Cheshire/Xerox, et al., B-226939 et al., Aug. 31, 1987, 87-2 C.P.D. ¶ \_\_\_\_.

The request for reconsideration is denied.

The protests of C/X and two other offerors concerned a Department of Agriculture procurement of label affixer machines to be used by county offices of the Agricultural Stabilization and Conservation Service. The contracting agency determined C/X's proposal to be technically unacceptable because the product it intended to furnish did not meet the solicitation's "commercial product" requirements. Initially, C/X protested to our Office the rejection of its proposal; in supplemental protests, the firm also protested the award to another offeror, Scriptomatic, on bases unrelated to the "commercial product" requirement.

In our decision of August 31, 1987, we concluded that the contracting officer reasonably considered the product which C/X proposed to furnish not to satisfy the solicitation's "commercial product" requirements, and that the firm's proposal was properly excluded from consideration for award

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C/X's protest of the rejection of its proposal therefore was denied. We then stated:

"Given this conclusion, we dismiss C/X's protest against the Scriptomatic award, since with C/X's proper exclusion from consideration for award, the company no longer has the status of an interested party who can challenge the award. See Wilkinson Mfg. Co., B-225810, Mar. 23, 1987, 87-1 C.P.D. ¶ 333."

In correspondence which we regard as a request for reconsideration C/X now states that it "takes exception" to our decision because we did not "answer" or "address" two issues which it had raised concerning the adequacy of the Scriptomatic proposal. C/X asserts that it does not regard our decision as "final" until we have dealt with these remaining "open issues."<sup>1/</sup> Not mentioned, much less challenged, in C/X's request for reconsideration is our denial of its protest against the rejection of its proposal for its failure to offer a "commercial product."

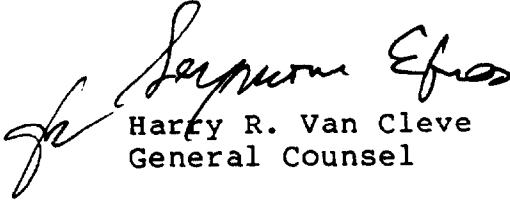
The fact of the matter is that C/X could not have been awarded this contract because of its failure to satisfy the solicitation's "commercial product" requirement--a determination which was the subject of its initial protest to our Office, and which was denied in a portion of our decision which C/X has not even asked us to reconsider. As we pointed out in the passage from our initial decision quoted above, once C/X properly was excluded from consideration for award of this contract, it no longer was an "interested party" within the meaning of our Bid Protest Regulations to challenge on other bases the award to Scriptomatic. As one ineligible for award even if its protest concerning Scriptomatic's proposal were sustained, C/X lacked a sufficiently direct interest in the procurement to warrant our consideration of those objections. The Wilkinson

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<sup>1/</sup> We do presently have before our Office a request by Automecha, another protester who is an interested party, that we reconsider our denial of its protest concerning the adequacy of Scriptomatic's manual (B-227252.2).

decision cited in our August 31 decision is but one recent example of where we have stated and applied this principle, with which our August 31 decision is consistent.

Request for reconsideration denied.

  
Harry R. Van Cleve  
General Counsel